

DOCKET NO.: 230255US0

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
VALERIE DE LA POTERIE, ET AL. : EXAMINER: VENKAT, J.A.
SERIAL NO: 10/656,278 :
FILED: SEPTEMBER 8, 2003 : GROUP ART UNIT: 1615
FOR: KERATIN FIBRE MAKEUP :
COMPOSITION COMBINING HIGH
SOLIDS CONTENT WITH SPECIFIC
ADHESION PROFILE

REQUEST FOR RECONSIDERATION

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

In response to the Office Action dated August 10, 2007, reconsideration and allowance are respectfully requested in view of the following remarks.

Claims 32-62 are pending, claims 39-44 and 59-62 having been withdrawn from consideration.

Withdrawn Claims

For the reasons set forth below, Applicants submit that all pending claims presently subject to examination are in condition for allowance. Because the withdrawn depend from, and thus recite all features of, allowable claims subject to examination, rejoinder and allowance of the withdrawn claims are respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

The Office Action rejects claim 32 as indefinite under 35 U.S.C. §112, second paragraph. Applicants respectfully traverse the rejection.

The Office Action asserts that the recitation of "dry solids extract" in claim 32 renders the claim indefinite. The "dry solids extract" is the quantity of non-volatile solid matter in a composition, which is determined by measuring under specified physical conditions. The procedure for determining "dry solids extract" is described in detail in the present specification at page 47, lines 22 to 35. The "dry solids extract" or DE is the percentage of the initial mass of a composition constituted by the final mass of the composition after the composition is subjected to a temperature of 120 °C for a period of 60 minutes. The present specification provides a standard by which "dry solids extract" can be understood and determined. *See, e.g.*, MPEP §2173.05(b). Accordingly, one of ordinary skill in the art could readily discern the metes and bounds of the claim.

For the foregoing reasons, claim 32 is definite. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Rejections Under 35 U.S.C. §102

A. De La Poterie 020

The Office Action rejects claims 32-38 and 45-58 under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2004/0137020 to De La Poterie et al. ("De La Poterie 020"). Applicants respectfully traverse the rejection.

De La Poterie 020 was filed on September 5, 2003 and published on July 15, 2004. The present application was filed on September 8, 2003, and further claims priority to French Application No. 02 11093, filed September 6, 2002. As is evident from the English-language translation filed herewith, the disclosure of French Application No. 02 11093 fully supports

the claims of the present application. Accordingly, the claims of the present application are entitled to the September 6, 2002 filing date of French Application No. 02 11093.

De La Poterie 020 was published after the September 8, 2003 filing date of the present application, and thus is not available as prior art against the claims of the present application under 35 U.S.C. §102(a) or §102(b). De La Poterie 020 and the U.S. provisional applications to which De La Poterie 020 claims priority were filed after the September 6, 2002 priority filing date of the present application, and thus De La Poterie 020 not available as prior art against the claims of the present application under 35 U.S.C. §102(e). As De La Poterie 020 is not available as prior art against the claims of present application, the rejection over De La Poterie 020 should be withdrawn.

For the foregoing reasons, reconsideration and withdrawal of the rejection are respectfully requested.

B. De La Poterie 021

The Office Action rejects claims 32-38 and 45-58 under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. 2004/0137021 to De La Poterie et al. ("De La Poterie 021"). Applicants respectfully traverse the rejection.

De La Poterie 021 was filed on September 5, 2003 and published on July 15, 2004. De La Poterie 021 was published after the September 8, 2003 filing date of the present application, and thus is not available as prior art against the claims of the present application under 35 U.S.C. §102(a) or §102(b). De La Poterie 021 and the U.S. provisional applications to which De La Poterie 021 claims priority were filed after the September 6, 2002 priority filing date of the present application, and thus De La Poterie 021 not available as prior art against the claims of the present application under 35 U.S.C. §102(e). As De La Poterie 021

is not available as prior art against the claims of present application, the rejection over De La Poterie 021 should be withdrawn.

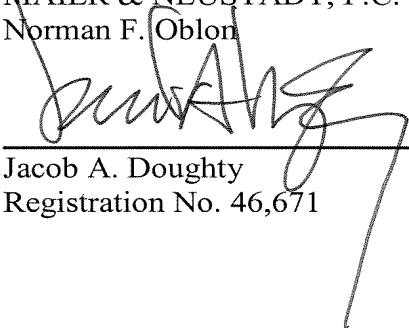
For the foregoing reasons, reconsideration and withdrawal of the rejection are respectfully requested.

Conclusion

For the foregoing reasons, Applicants submit that claims 32-62 are in condition for allowance. Prompt reconsideration and allowance are respectfully requested.

Respectfully submitted,

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(OSMMN 08/07)

Attachment:

English-language translation of French Application No. 02 11093